HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.13689 of 2007

Date: 09.07.2007

Between:

Srinivasa Waddera Labour Contract Cooperative Society Limited, represented by its President V. Srinivasa Rao

....Petitioner

and

The Executive Engineer, I & CAD, Irrigation Division, Bhadrachalam, Khammam District and others

....Respondents

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O R D E R:

The petitioner is a Labour Contract Cooperative Society. Its members are said to be persons belonging to "Waddera" Community. This writ petition is filed for a declaration that the action of the respondents in insisting on payment of EMD as well as seigniorage fee on the material used in the works as illegal, arbitrary and contrary to G.O.Ms.Nos. 286 dated 11.7.1994 and 52 dated 18.3.2000.

The petitioner submits that it had submitted tenders for number of works with the respondents herein and though the Government had issued clear directions exempting the societies of this nature from the requirement of depositing EMD, time and again the respondents are insisting on the same. Another grievance of the petitioner is that the deduction of seigniorage fee from the bills on the material used in execution of works shall not be insisted by the respondents.

Heard the learned counsel for the petitioner, learned Government Pleaders for Irrigation and Command Area Development, Roads and

Buildings and also the Standing Counsel for the 3rd respondent-Municipal Corporation.

Basically, this writ petition cannot be entertained for the reason that it does not relate to any specific item of work. A general direction is sought unrelated to any individual work.

Be that as it may.

The grievance of the petitioner is two fold i.e., as regards its liability to pay EMD and the entitlement of the respondents to deduct the amount towards seigniorage fee. So far as the 1st aspect is concerned, the Government issued G.O.Ms.No.52 Transport, Roads and Buildings Department dated 18.3.2000, exempting the societies of this nature from the requirement of depositing EMD for the works up to Rs.20 lakhs in case of societies and Rs.10 lakhs in case of individuals.

If the petitioner fulfils the qualification mentioned in the G.O., there is no reason why it cannot be extended the benefit. That, however, is a matter which needs to be considered as regards individual works and no general direction can be issued.

Coming to the liability to pay the seigniorage fee, the petitioner relies upon the G.O.Ms.No.286 Industries and Commerce Department dated 11.7.1994. In this G.O., the Government exempted the persons working any quarries of rough stone, building stone, road metal ballast, grit, murram and napa slabs from paying the seigniorage fee under the A.P. Minor Mineral Concession Rules, 1966. It is difficult to discern from the G.O., that in case the individuals operating the quarry are

granted contract and use such material, they must be exempted from paying the seigniorage fee. The reason is that in the works which involve utilization of mine and mineral, estimates include the component of seigniorage fee. Once a person is entrusted with such a work, he cannot claim any exemption from payment of seigniorage fee.

Hence, the writ petition is disposed of leaving it open to the petitioner to claim exemption from payment of EMD as and when situation arises and directing that it shall not be entitled to claim exemption from payment of seigniorage fee for the material used by it.

No order as to costs.

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L.NARASIMHA REDDY, J

9th July, 2007.
cvm